



# Fair Housing Newsletter

*Keeping you current on fair housing news and issues*



 LAW OFFICE OF  
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## A Win for Landlords!

Claims of harassment are sometimes difficult to resolve. Both parties claim they have been harassed and landlords are at a loss of what to do – especially when one resident is harassing another resident. As many landlords know, the U.S. Department of Housing and Urban Development has long held the position that if a landlord knows one resident is harassing another resident based on a protected class, the landlord has liability to the victim if they fail to take action to stop the harassment. Based on a new case, HUD’s position may be in jeopardy. The U.S. Court of Appeals for the Second Circuit has ruled that landlords cannot be held liable under the Fair Housing Act for failing to get involved in or resolve race-based harassment between residents.

The case revolved around a dispute between two neighbors at an apartment complex in Long Island, NY. A black neighbor claimed that a white neighbor bombarded him with racial slurs and caused him to feel “fear and anxiety.” The black neighbor reported the white neighbor’s actions to management, but management did not respond. In fact, upper management told the property manager not to get involved. The black neighbor called the police and the white neighbor was charged with aggravated harassment, to which he eventually pled guilty.

*Win: Continued on Page 2*

**Note From the Editor:** April is National Fair Housing Month. This month celebrates the passage of the Fair Housing Act in April, 1968. Landlords should mark this month by reminding employees of their fair housing obligations and providing training.



Win: Continued from Page 1

The black neighbor then filed a lawsuit against the owners and the property manager. The lawsuit alleged the white neighbor's actions, and the landlord's refusal to address those actions, were a violation of the Fair Housing Act (FHA). The lower court dismissed the fair housing claims and the resident appealed.



The U.S. Court of Appeals for the Second Circuit, upheld the dismissal of the FHA claims. The *en banc* court concluded that landlords cannot be presumed to have the degree of control over tenants that would be necessary to impose liability under the FHA for tenant-on-tenant misconduct.

The Second Circuit Judge wrote: “Does a plaintiff state a claim under the Fair Housing Act of 1968 (FHA) for intentional discrimination by alleging that his landlord failed to respond to reports of race-based harassment by a fellow tenant? On the record before us, we answer the question in the negative... (W)e think landlords typically do not, and therefore cannot be presumed to, exercise the degree of control over tenants that would be necessary to impose liability under the FHA for tenant-on-tenant harassment.”

This decision is a win for landlords across the country.

## HUD Charges Another Landlord with Sexual Harassment

The U.S. Department of Housing and Urban Development has charged the husband and wife owners of apartments in Pennsylvania with sexual harassment and retaliation after the husband allegedly groped and tried to forcibly kiss a female resident.

The female resident alleged the husband came to her apartment to perform some repairs and to have her sign some paperwork. While the resident was reviewing the paperwork, the husband come up behind her and placed his arms around her, rubbed his hands up and down her legs, and tried to kiss her. Then, the husband asked the resident to come upstairs to assist him with an electrical repair. While upstairs, he again tried to kiss the resident. Both times, the resident told him to stop.

When the female resident told the wife about the incident, the wife confronted the husband, who denied all of the allegations. A short time later, the wife sent the resident text messages stating: “You are out,” “You got 10 days,” and “You are a liar.” The resident was eventually evicted and filed a fair housing complaint with HUD for sexual harassment.



Following an investigation, HUD has filed a charge against the husband and wife for sexual harassment and retaliation. HUD's charge will be heard by a U.S. Administrative Law Judge unless any party elects for the case to be heard in federal court.



# HOUSING CROSSROADS

WHERE FAIR HOUSING AND  
LANDLORD TENANT LAWS INTERSECT

## Housing Crossroads Webinar

### Death of a Resident

Wednesday, April 28, 2021  
10:00 a.m. - 11:30 a.m. central

It is inevitable – residents pass away and landlords are left with the daunting task of navigating the triangle of problems: protecting the former resident’s personal property, addressing the immediate needs of heirs and children and getting the property ready to rent again. It is never an easy situation for any of the parties involved. In this webinar, we will discuss the common issues that arise for landlords when a resident passes away including best practices for addressing certain issues before they arise and legally protecting the landlord from liability afterwards. Our discussion will include:

- Power of Attorney
- Next of Kin
- Personal Property
- Minor Children
- Opening an Estate

**\$34.99**  
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**Nathan Lybarger**  
Law Office of Hall &  
Associates

### Speakers



**Angelita Fisher**  
Law Office of Angelita E.  
Fisher

## Landlords Pay \$115,000 to Settle Claims They Refused Accommodations

The owners and management companies of nineteen Pennsylvania apartment complexes have agreed to pay \$115,000 to settle a fair housing complaint alleging they refused to accommodate individuals with disabilities. The complaint was filed with the U.S. Department of Housing and Urban Development. HUD has approved the settlement. The press release announcing the settlement, however, does not indicate what accommodations were allegedly not provided.



Under the terms of the settlement, the management companies and owners will pay \$90,000 to the Housing Equality Center of Pennsylvania and \$25,000 to the initial complainant. They have also agreed to develop and implement nondiscrimination and reasonable accommodation policies, provide training to staff, and grant reasonable accommodations to tenants whose requests were previously denied.

## JPMorgan Chase Resolves Claims of Discriminatory Appraisals



JPMorgan Chase allegedly valued a home for less than its worth because of the owner's race. As a result, the woman filed a complaint with HUD. The complaint has been resolved with JPMorgan paying the woman \$50,000. The bank has also agreed to provide home lending advisors and client care specialists with training on the Reconsideration of Value process and fair lending issues related to appraisals, including specifics regarding how to handle complaints of discrimination in the appraisal process.

## Marcia Fudge Sworn in As Secretary of HUD

On March 10, 2021, Marcia L. Fudge was officially sworn in as the eighteenth Secretary of Housing and Urban Development. Fudge now leads a federal department with which includes: the Offices of Housing, Community Planning and Development, Federal Housing Administration, Public and Indian Housing, Fair Housing and Equal Opportunity, Policy Development and Research, Field Policy and Management, Government National Mortgage Association (Ginnie Mae), Lead Hazard Control and Healthy Homes, and Faith-Based and Neighborhood Partnerships.



Secretary Fudge formerly served in the U.S. House of Representatives for Ohio's 11<sup>th</sup> Congressional District from 2008 to 2021.

## CA Landlord Pays \$10,000 to Settle ESA Complaint

The Fair Housing Act prohibits housing providers from discriminating against people with disabilities, including refusing to make reasonable accommodations in policies or practices. These accommodations include allowing residents with disabilities to have service animals or assistance animals including those used for emotional support. Although most landlords are aware of the accommodation request, some are still refusing accommodation animals.

The U.S. Department of Housing and Urban Development recently agreed to a settlement between California-based rental property owners and managers and a resident of one of their properties. The settlement resolves claims the housing providers denied the resident's reasonable accommodation request to keep an assistance animal.

The complaint alleged the housing providers not only denied the resident's request for an ESA, but also cancelled the lease, changed the locks on the unit, and threatened to call the police in the event that he attempted to move in. The housing providers deny they discriminated against the resident. Regardless, the housing providers have agreed to pay \$10,000 to the resident, provide fair housing training for their employees, create and implement a written Reasonable Accommodation Policy, and modify any rental forms or materials to be consistent with the Fair Housing Act.



## Fair Housing Webinar Understanding VAWA

Wednesday, May 12, 2021  
10:00 a.m. - 11:00 a.m. Central

**\$24.99**

Domestic violence is an issue almost every landlord has been forced to face. Can you evict? Do you need to get involved at all? Why is the resident looking to you for help?

Whether you're a federally funded property, a tax credit property, or accept a Section 8 voucher, you must comply with the Violence Against Women Act. Every landlord should know the rules on when the Act applies, transfers, documentation, and liability. In this webinar, we will discuss:

- Recognizing when the VAWA May or May Not Apply
- Sorting out the Paperwork
- Requesting Documentation
- Transfers
- Liability
- Recent Cases Interpreting the Act

**\$24.99**  
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